

MINUTES

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

07/31/2006 4:30 pm

SUE BEITIA, CLERK

CASE NUMBER: CIVIL NO. 04-00449SOM-LEK

CASE NAME: Barbara Kalanikiekie Kaapuni, et al. vs. Carlton Helm, et al.

ATTYS FOR PLA:

ATTYS FOR DEFT:

INTERPRETER:

JUDGE: Leslie E. Kobayashi

REPORTER:

DATE: 07/31/2006

TIME:

COURT ACTION: EO: Court's Inclination Re: Motion to Withdraw as Counsel

The Court, having reviewed Arthur Ross and Rory Soares Toomey's ("Counsel") Motion to Withdraw as Counsel, filed July 10, 2006 ("Motion"), and Defendants' statement of no opposition and nonappearance, filed July 17, 2006, hereby informs the parties of its inclination to GRANT the Motion for the reasons that follow.

Under Local Rule 83.6(b), "[a]n attorney who has appeared in a case may seek to withdraw on motion showing good cause." Counsel state that they have had "profound disagreements, conflicts and irreconcilable differences" with Plaintiffs, including conflicts over the viability of an appeal. [Motion at 3-4.] Counsel also represent that Plaintiffs have been unable to pay for Counsel's services and will be able to pay for an appeal. The Court is therefore inclined to find that good cause exists to permit Counsel to withdraw.

The Court instructs Plaintiffs to either: 1) appear at the August 2, 2006 hearing in person; 2) seek permission of the Court to appear at the hearing by telephone; or 3) file a statement indicating whether they intend to represent themselves pro se on appeal or whether they have retained substitute counsel. If Plaintiffs have retained substitute counsel, Plaintiffs must provide the name of substitute counsel to the Court.

The parties should appear at the August 2, 2006 hearing prepared to discuss these issues and/or to direct the Court to controlling case law that either supports or contradicts

this matter. The Court notes, this inclination is intended only to help the parties prepare for oral argument and is not the Court's final decision in the matter. Rather, the parties are encouraged to raise relevant case law and/or facts to show the Court why its inclination is mistaken or correct.

Cc: all counsel

Submitted by: Warren N. Nakamura, Courtroom Manager